# A2 Athletes AC – Lexington

## 1

#### People have an innate right to set ends –

#### 1] Only a right to set ends explains the value of action.

Korsgaard 96, Christine, professor of philosophy at Harvard. “The Sources of Normativity.” 1996.

This is just a fancy new model of an argument that first appeared in a much simpler form, Kant’s argument for his Formula of Humanity. The form of relativism with which Kant began was the most elementary one we encounter - the relativity of value to human desires and interests. He started from the fact that when we make a choice we must regard its object as good. His point is the one I have been making - that being human we must endorse our impulses before we can act on them. Kant asked what it is that makes these objects good, and, rejecting one form of realism, he decided that the goodness was not in the objects themselves. Were it not for our desires and inclinations, we would not find their objects good. Kant saw that we take things to be important because they are important to us - and he concluded that we must therefore take ourselves to be important. In this way, the value of humanity itself is implicit in every human choice. If normative skepticism is to be avoided - **i**f there is any such thing as a reason for action - then humanity as the source of all reasons and values must be valued for its own sake.

#### 2] Reason is inescapable – to ask why to use reason is to cede the authority of reason. Reasons are thus universal for all agents because it’s a shared aspect of being an agent. This proves unconditional human worth because I can’t will to violate your right to set ends without also reasoning that I can violate my own right to set ends, which is incoherent.

#### However, in the state of nature, rights are only provisional – resolving conflicting rights claims requires the existence of a general will.

Korsgaard 08, Christine. “Taking the Law into Our Own Hands: Kant on the Right to Revolution” SA-IB

Kant’s political philosophy is a social contract theory, in obvious ways in the tradition of Locke. But the differences are important. In Locke’s view, individuals have rights in the state of nature, and may enforce those rights. But when each person determines and enforces his own rights the result is social disorder. Since this disorder is contrary to our interests, people join together into a political state, transferring our executive authority to a government.⁶ Kant also believes that there is a sense in which we have rights in the state of nature. We have a natural right to our freedom (MPJ 6:237), and, Kant thinks, the Universal Principle of Justice allows us to claim rights in land and, more generally, in external objects, in property. Kant argues that it would be inconsistent with freedom to deny the possibility of property rights, on the grounds that unless we can claim rights to objects, those objects cannot be used (MPJ 6:246).⁷ This would be a restriction on freedom not based in freedom itself, which we should therefore reject, and this leads us to postulate that objects may be owned. But unlike Locke, Kant argues that in the state of nature these rights are only ‘‘provisional’’ (MPJ 6:256). In this, Kant is partly following Rousseau. In contrast to Locke, Rousseau argues that rights are created by the social contract, and, in a sense, relative to it. My possessions become my property, so far as you and I are concerned, when you and I have given each other certain reciprocal guarantees: I will keep my hands off your possessions if you will keep your hands off mine.⁸ Rights are not acquired by the metaphysical act of mixing one’s labor with the land, but instead are constructed from the human relations among people who have made such agreements.⁹ Kant adopts this idea, at least as far as the executive authority associated with a property right is concerned. I may indeed coercively enforce my rights. But if my doing so is to be consistent with the Universal Principle of Justice, it cannot be an act of unilateral coercion. To claim a right to a piece of property is to make a kind of law; for it is to lay it down that all others must refrain from using the object or land in question without my permission. But to view my claim as a law I must view it as the object of a contract between us, a contract in which we reciprocally commit ourselves to guaranteeing each other’s rights. It is this fact that leads us to enter—or, more precisely, to view ourselves as already having entered—political society. In making this argument, Kant evokes Rousseau’s concept of the general will. He argues that a general will to the coercive enforcement of the rights of all concerned is implicitly involved in every property claim Now, with respect to an external and contingent possession, a unilateral Will cannot serve as a coercive law for everyone, since that would be a violation of freedom in accordance with universal laws. Therefore, only a Will binding everyone else— that is, a collective, universal (common), and powerful Will—is the kind of Will that can provide the guarantee required. The condition of being subject to general external (that is, public) legislation that is backed by power is the civil society. Accordingly, a thing can be externally yours or mine [that is, can be property] only in a civil society. (MPJ 6:256) It is because the idea of the general will to the reciprocal enforcement of rights is implicit in any claim of right that Kant argues that rights in the state of nature are only provisional. They are provisional because this general will has not yet been instituted by setting up a common authority to enforce everyone’s rights. The act that institutes the general will is the social contract. Kant concludes from this argument that when the time comes to enforce your rights coercively, in the state of nature, the only legitimate way to do that is by joining in political society with those with whom you are in dispute. In fact, you enforce your right by first forcing them to join in political society with you so that the dispute can be settled by reciprocal rather than unilateral coercion:

#### Thus, the standard is consistency with the omnilateral will. Additionally –

#### The omnilateral will explains the constitutive nature of the state.

Korsgaard 08, Christine. “Taking the Law into Our Own Hands: Kant on the Right to Revolution” SA-IB

Why is it permissible for others to force or coerce you to conform to the duties of justice? The Universal Principle of Justice in effect says that **the only restriction on freedom is consistency with the freedom of everyone else.** Anything that is consistent with universal freedom is just, and you therefore have a right to do it. If someone tries to interfere with that right, he is interfering with your freedom and so violating the Universal Principle of Justice. **Violations of** the Universal Principle of **Justice may be opposed by coercion for the** simple **reason that anything that hinders a hindrance to freedom is consistent with freedom**, and anything that is consistent with universal freedom is just. **It follows that rights are coercively enforceable.** Indeed, coercive enforceability is not something attached to rights; it is constitutive of their very nature (MPJ 6:232). To have a right just is to have the executive authority to enforce a certain claim. **This** in turn **is the foundation of** the executive or coercive authority of **the political state.** Kant’s political philosophy is a social contract theory, in obvious ways in the tradition of Locke. But the differences are important. In Locke’s view, individuals have rights in the state of nature, and may enforce those rights. But **when each person** determines and **enforces [their]** his own **rights the result is social disorder. Since** this **disorder is contrary to our interests, people join together into a political state**, transferring our executive authority to a government.

#### External forces determine consequences.

Hegel 20 George Wilhelm Friedrich Hegel “The Philosophy of Right” 1820

**The will has** before it **an outer reality**, upon which it operates. But to be able **to do this, it must have a representation of** this **reality**. True **responsibility** **is** **mine only** in **so far as the outer reality** **was within my consciousness**. The will, because this external matter is supplied to it, is finite; or rather because it is finite, the matter is supplied. When I think and will rationally, I am not at this standpoint of finitude, nor is the object I act upon something opposed to me. The finite always has limit and boundary. There stands opposed to me that which is other than I, something accidental and externally necessary; it may or may not fall into agreement with me. But I am only what relates to my freedom; and the act is the purport of my will only in so far as I am aware of it. Œdipus, who unwittingly slew his father, is not to be arraigned as a patricide. In the ancient laws, however, less value was attached to the subjective side of the act than is done to-day. Hence arose amongst the ancients asylums, where the fugitive from revenge might be received and protected. 118. **An act**, when it has become an external reality, and is connected with a varied outer necessity, has manifold consequences. These consequences, being the visible shape, whose soul is the end of action, belong to the act. But at the same time the inner act, **when realized** as an end **in the external world**, **is handed** over **to external forces, which attach** to it **something** quite **different from what it is in itself**, **and thus carry** it away into **strange** and **distant consequences. It is the right of the will to adopt only the first consequences, since they alone lie in the purpose.**

#### 1] Equal freedom requires restricting hate speech and harassment.

Helga Varden 10, Associate professor of philosophy, associate professor of gender studies at the University of Illinois. Varden’s main research interests are in legal, political, and feminist philosophy, with an emphasis on the Kantian and the Lockean traditions. She has published on a range of classical philosophical issues, currently the co-president for the Society for the Philosophy of Sex and Love and the Vice-President of the North American Kant Society. “A Kantian Conception of Free Speech” 2010. SA-IB

On the Kantian view I have been developing, hate speech and speech amounting to harassment are not outlawed because they track private wrongdoing as such, but rather because they track the state’s historical and current inability to provide some group(s) of citizens with rightful conditions of interaction. This type of public law tries to remedy the fact that some citizens have been and still are ‘more equal than others’. Hence, if the state finds that it is still unable successfully to provide conditions under which protection and empowerment of its historically oppressed, and thus vulnerable, are secured, then it is within its rightful powers to legally regulate speech and harassment to improve its ability to do so. By putting its weight behind historically oppressed and vulnerable citizens, the state seeks to overcome the problems caused by its lack of recognition in the past and its current failure to provide conditions in which its citizens interact with respect for one as free and equal. Therefore, whether or not any instance of speech actually achieves insult is inconsequential, for that is not the justification for the state’s right to outlaw it. Rather, laws regulating speech and harassment track the state’s systemic inability to provide rightful interaction for all of its citizens. Note that this argument does not, nor must it, determine which particular usages of hate speech and speech amounting to harassment should be banned. It only explains why certain kinds and circumstances of speech and harassment can and should be outlawed and why public law, rather than private law, is the proper means for doing so. Determining which types and how it should be banned’

#### Hate speech is constitutionally protected.

Eugene Volokh 15, reporter for the Washingotn Post. “No, there’s no “hate speech” exception to the First Amendment” May 7th, 2015. https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/05/07/no-theres-no-hate-speech-exception-to-the-first-amendment/?utm\_term=.779cdacd2341

I keep hearing about a supposed “hate speech” exception to the First Amendment, or statements such as, “This isn’t free speech, it’s hate speech,” or “When does free speech stop and hate speech begin?” But **there is no hate speech exception to the First Amendment.** Hateful ideas (whatever exactly that might mean) are just as protected under the First Amendment as other ideas. One is as free to condemn Islam — or Muslims, or Jews, or blacks, or whites, or illegal aliens, or native-born citizens — as one is to condemn capitalism or Socialism or Democrats or Republicans. **To be sure, there are some kinds of speech that are unprotected** by the First Amendment. **But those narrow exceptions have nothing to do with “hate speech”** in any conventionally used sense of the term. For instance, there is an exception for “fighting words” — face-to-face personal insults addressed to a specific person, of the sort that are likely to start an immediate fight. But this exception isn’t limited to racial or religious insults, nor does it cover all racially or religiously offensive statements. Indeed, when the City of St. Paul tried to specifically punish bigoted fighting words, the Supreme Court held that this selective prohibition was unconstitutional (R.A.V. v. City of St. Paul (1992)), even though a broad ban on all fighting words would indeed be permissible. (And, notwithstanding CNN anchor Chris Cuomo’s Tweet that “hate speech is excluded from protection,” and his later claims that by “hate speech” he means “fighting words,” the fighting words exception is not generally labeled a “hate speech” exception, and isn’t coextensive with any established definition of “hate speech” that I know of.) The same is true of the other narrow exceptions, such as for true threats of illegal conduct or incitement intended to and likely to produce imminent illegal conduct (i.e., illegal conduct in the next few hours or maybe days, as opposed to some illegal conduct some time in the future). Indeed, **threatening to kill someone because he’s black** (or white), **or intentionally inciting someone to a likely** and immediate **attack** on someone **because he’s Muslim** (or Christian or Jewish), **can be made a crime**. **But this isn’t because it’s “hate speech**”; it’s because it’s illegal to make true threats and incite imminent crimes against anyone and for any reason, for instance because they are police officers or capitalists or just someone who is sleeping with the speaker’s ex-girlfriend. The Supreme Court did, in Beauharnais v. Illinois (1952), uphold a “group libel” law that outlawed statements that expose racial or religious groups to contempt or hatred, unless the speaker could show that the statements were true, and were said with “good motives” and for “justifiable ends.” But this too was treated by the Court as just a special case of a broader First Amendment exception — the one for libel generally. And Beauharnais is widely understood to no longer be good law, given the Court’s restrictions on the libel exception. See New York Times Co. v. Sullivan (1964) (rejecting the view that libel is categorically unprotected, and holding that the libel exception requires a showing that the libelous accusations be “of and concerning” a particular person); Garrison v. Louisiana (1964) (generally rejecting the view that a defense of truth can be limited to speech that is said for “good motives” and for “justifiable ends”); Philadelphia Newspapers, Inc. v. Hepps (1986) (generally rejecting the view that the burden of proving truth can be placed on the defendant); R.A.V. v. City of St. Paul (1992) (holding that singling bigoted speech is unconstitutional, even when that speech fits within a First Amendment exception); Nuxoll ex rel. Nuxoll v. Indian Prairie Sch. Dist. # 204, 523 F.3d 668, 672 (7th Cir. 2008) (concluding that Beauharnais is no longer good law); Dworkin v. Hustler Magazine Inc., 867 F.2d 1188, 1200 (9th Cir. 1989) (likewise); Am. Booksellers Ass’n, Inc. v. Hudnut, 771 F.2d 323, 331 n.3 (7th Cir. 1985) (likewise); Collin v. Smith, 578 F.2d 1197, 1205 (7th Cir. 1978) (likewise); Tollett v. United States, 485 F.2d 1087, 1094 n.14 (8th Cir. 1973) (likewise); Erwin Chemerinsky, Constitutional Law: Principles and Policies 1043-45 (4th ed. 2011); Laurence Tribe, Constitutional Law, §12-17, at 926; Toni M. Massaro, Equality and Freedom of Expression: The Hate Speech Dilemma, 32 Wm. & Mary L. Rev. 211, 219 (1991); Robert C. Post, Cultural Heterogeneity and Law: Pornography, Blasphemy, and the First Amendment, 76 Calif. L. Rev. 297, 330-31 (1988).

#### 2] Seditious speech collapses the omnilateral will, which is a contradiction.

Helga Varden 10, Associate professor of philosophy, associate professor of gender studies at the University of Illinois. Varden’s main research interests are in legal, political, and feminist philosophy, with an emphasis on the Kantian and the Lockean traditions. She has published on a range of classical philosophical issues, currently the co-president for the Society for the Philosophy of Sex and Love and the Vice-President of the North American Kant Society. “A Kantian Conception of Free Speech” 2010.

To understand Kant’s condemnation of seditious speech, remember that Kant, as mentioned above, takes himself to have shown that justice is impossible in the state of nature or that there is no natural executive right. Since Kant considers himself to have successfully refuted any defense of the natural executive right, he takes himself also to have shown that no one has the right to stay in the state of nature. This, in turn, explains why Kant can and does consider seditious speech a public crime. The intention behind seditious speech is not merely to criticize the government or to discuss theories of government critically, say. **In order to qualify as seditious, the speaker’s intention must be to** encourage and support efforts to **subvert the government or to instigate** its violent overthrow, namely **revolution**. **To have such a right would be to have the right to destroy the state**. **Since the state is the means through which right is possible, such a right would involve having the right to annihilate right** (6: 320). That is, since right is impossible in the state of nature, to have a right to subversion would be to have the right to replace right with might. Since the state is the only means through which right can replace might, the state outlaws it. And **since it is a crime that “endanger[s] the commonwealth” rather than citizens qua private citizens, it is a public crime** (6: 331)

#### Seditious speech is constitutionally protected.

Justia n.d. [Justia, “Seditious Speech and Seditious Libel”, http://law.justia.com/constitution/us/amendment-01/41-seditious-speech.html] AG

Seditious Speech and Seditious Libel.—Opposition to government through speech alone has been subject to punishment throughout much of history under laws proscribing “seditious” utterances. In this country, **the Sedition Act of 1798 made criminal, inter alia, malicious writings which defamed, brought into contempt or disrepute, or excited the hatred of the people against the Government, the President, or the Congress, or which stirred people to sedition**.966 **In New York Times Co. v. Sullivan**,967 **the Court** surveyed the controversy surrounding the enactment and enforcement of the Sedition Act and **concluded that** debate “first crystallized a national awareness of the central meaning of the First Amendment.... Although the Sedition Act was never tested in this Court, the attack upon its validity has carried the day in the court of history .... [That history] reflect[s] a broad consensus that **the Act, because of the restraint it imposed upon criticism of government and public officials, was inconsistent with the First Amendment**.” The “central meaning” discerned by the Court, quoting Madison’s comment that in a republican government “**the censorial power is in the people over the Government, and not in the Government over the people**,” is that “[t]he right of free public discussion of the stewardship of public officials was thus, in Madison’s view, a fundamental principle of the American form of government.

## 2

#### Public colleges and universities ought to use free speech restrictions on student athletes in order to prohibit the use of racial insults towards non-white people.

#### The definition of racial insult the counterplan uses is consistent with Byrne’s proposal – this resolves censorship concerns.

J. Peter Byrne 91, associate professor at Georgetown law. “Racial Insults and Free Speech Within the University” Georgetown University Law Center. 1991. http://scholarship.law.georgetown.edu/facpub/1577/ SA-IB

For several years universities have been troubled by disturbing incidents of racial insults and harassment. Most often, these incidents involve verbal or symbolic abuse of black students by white students at predominantly white schools, often some of the nation's most elite universities. University administrators and faculty have uniformly denounced such harassment. They have disagreed, however, on whether universities should take disciplinary action against students who use racially offensive speech. Those who favor disciplinary action argue that minority students' claims for racial justice from institutions that long barred or slighted them, and which still reflect the ascendancy of white males, are an appropriate basis for the discipline of racially offensive speech. Those who oppose disciplinary action often argue that punishing racially insulting speech and behavior would violate the principles of free expression inherent in both academic freedom and the first amendment. This article examines the constitutionality of university prohibitions of public expression that insults members of the academic community by directing hatred or contempt toward them on account of their race. I Several thoughtful scholars have examined generally whether the government can penalize citizens for racist slurs under the first amendment, but to the limited extent that they have discussed university disciplinary codes they have assumed that the state university is merely a government instrumentality subject to the same constitutional limitations as, for example, the legislature or the police. 2 In contrast, I argue that the university has a fundamentally different relationship to the speech of its members than does the state to the speech of its citizens. On campus, general rights of free speech should be qualified by the intellectual values of academic discourse. I conclude that the protection of these academic values, which themselves enjoy constitutional protection, permits state universities lawfully to bar racially abusive speech, even if the state legislature could not constitutionally prohibit such speech throughout society at large. At the same time, however, I assert that the first amendment renders state universities powerless to punish speakers for advocating any idea in a reasoned manner. It is necessary at the outset to choose a working definition of a racial insult. This definition, however, is necessarily provisional; any such definition implies the writer's views on the boundaries of constitutionally protected offensive speech, and the reader cannot be expected to swallow the definition until she has had the opportunity to inspect the writer's constitutional premises. Having offered such a caution, I define a racial insult as a verbal or symbolic expression by a member of one ethnic group that describes another ethnic group or an individual member of another group in terms conventionally derogatory, that offends members of the target group, and that a reasonable and unbiased observer, who understands the meaning of the words and the context of their use, would conclude was purposefully or recklessly abusive. Excluded from this definition are expressions that convey rational but offensive propositions that can be disputed by argument and evidence. An insult, so conceived, refers to a manner of speech that seeks to demean rather than to criticize, and to appeal to irrational fears and prejudices rather than to respect for others and informed judgment. 3

#### White college athletes love using the n-word – it happens WAY too much and shows society’s failure to effectively combat racism.

Meg Penrose 13, Texas A&M University School of Law. “Outspoken: Social Media and the Modern College Athlete” 2013. SA-IB

The "N" Word Racist tweets, much like racist language, seem to gain the most attention and garner the most severe penalties. Four notable examples include Buck Burnette, a Texas football player; Ryan Spadola, a Lehigh football standout; Matt Faiella, a Stony Brook football player; and Bradley Patterson, a North Alabama football player. All four athletes were punished either by their team or by the NCAA for their poor choices in posting racially charged messages on social networking sites, each including a variation of the "N" word. 112 Buck Burnette was the first social media casualty for re-posting on his Facebook account a racial slur that he apparently deemed clever on election night 2008.113 The statement, "all the hunters gather up, we have a n\*\*\*\*\* in the whitehouse [sic]," quickly netted the attention of his coach and university. 114 Burnett was immediately suspended from the University of Texas football team and, ultimately, transferred to the Division II program at Abilene Christian University. 115 Burnett and his University of Texas teammates learned firsthand the perils of social media and the lasting consequences of a momentary lapse in judgment that posting or re-posting speech can have. Ryan Spadola and Matt Faiella learned the same lesson four years later when Spadola re-tweeted Faiella's offensive description of the rival Towson football team. 116 Captured in a website article entitled The 100 Biggest Twitter Fails of All Time, Spadola's re-tweet ranked number thirty-eight. 117 Spadola's re-tweet was sent immediately preceding Lehigh's close victory over Towson and resulted in Spadola and Faiella being suspended by the NCAA. 118 Hence, one simple racist comment, forwarded by another player, resulted in two teams losing their respective athletes for at least one game. A screenshot still exists of the "deleted" re-tweet, easily allowing anyone to witness the young men's racially charged message: "let them ni\*\*as talk shit, kids that talk shit tlk [sic] shit because they suck on the field. Its gunna [sic] be a long day for them."1 19 What may seem funny, ironic, or otherwise relevant to an eighteen- to twentythree-year-old student-athlete can turn drastically ugly before the individual has a chance to "take back" his or her posting. In fact, it is this inability to "take back" or truly delete a posting that continues to lead to suspensions and discipline against many college athletes. The athlete, once his or her speech is discovered as inappropriate, will often rush to take down the posting. But, usually, the tweet or posting has already been screen-captured by other individuals, often people who do not have the athlete's best interest at heart.120 Another "N"-word casualty is Bradley Patterson, a walk-on long-snapper for the North Alabama football team. 121 Patterson, who apparently grew frustrated with President Obama's speech responding to the Newtown, Connecticut school shooting, tweeted "[t]ake that n\*\*\*\*\* off the tv, we wanna [sic] watch football!"122 Patterson was immediately dismissed from the team. 123 Patterson, a relatively unknown hat, within an hour, Patterson had shut down his Twitter account and been kicked off the team. 124 Patterson, like those before him, and the many that will surely follow, began a public relations campaign to save his own image from further damage. He went on local television to tearfully apologize and proclaim that, despite referring to the President as a n\*\*\*\*\*, he was not racist. 125 In many respects, Patterson merely stated the obvious problem: "I put that on Twitter. I can't take it back, and it's always going to be in the back of somebody's mind that I said that, but I can't make them forgive me." 126 This is the quandary facing college athletic programs today. 127 How do schools prevent these petulant displays that college students are prone to make? How do coaches protect their teams from outspoken personalities who still do not appreciate the ubiquitous nature of social media? How does an athletic program ensure that such inappropriate tweets do not cause disruption to a team or dissension among players? One commentator remarked that the Spadola and Faiella suspensions have "to serve as a wake up [sic] call to coaches and administrators." 128 "The NCAA, while not having a policy in place, will take action against student-athletes that are abusing social media." 129 Ironically, the program that ultimately placed a social media ban on its players was neither Stony Brook nor Lehigh. Instead, it was the Towson coach who, recognizing the potential damage that a single tweet can cause a program, instructed his team to stay off Twitter. 130 Other coaches continue to follow suit.131

#### Racial insults cause psychological violence.

Richard Delgado 82, professor of law. “WORDS THAT WOUND: A TORT ACTION FOR RACIAL INSULTS, EPITHETS, AND NAME-CALLING” Harvard Civil Rights-Civil Liberties Law Review. 1982.

American society remains deeply afflicted by racism. Long before slavery became the mainstay of the plantation society of the antebellum South, Anglo-Saxon attitudes of racial superiority left their stamp on the developing culture of colonial America. 10 Today, over a century after the abolition of slavery, many citizens suffer from discriminatory attitudes and practices, infec- ting our economic system, our cultural and political institutions, and the daily interactions of individuals." The idea that color is a badge of inferiority and a justification for the denial of oppor- tunity and equal treatment is deeply ingrained. **The racial insult remains one of the most pervasive channels through which discriminatory attitudes are imparted**.I2 **Such language injures the dignity and self-regard of the person to whom it is addressed, communicating the message that distinc- tions of race are distinctions of merit, dignity, status, and personhood**.'3 Not only does the **listener learn and internalize the messages contained in racial insults**, 4 these **messages color our society's institutions and are transmitted to succeeding generations**. 5 A. TheHarmsofRacism The psychological harms caused by racial stigmatization are often much more severe than those created by other stereotyping actions. Unlike many characteristics upon which stigmatization may be based, membership in a racial minority can be considered neither self-induced, like alcoholism or prostitution, nor alterable. Race-based stigmatization is, therefore, "one of the most fruitful causes of human misery. Poverty can be eliminated-but skin color cannot."'6 The plight of members of racial minorities may be compared with that of persons with physical disfigurements; the point has been made that [a] rebuff due to one's color puts [the victim] in very much the situation of the very ugly person or one suffer- ing from a loathsome disease. The suffering. . may be aggravated by a consciousness of incurability and even blameworthiness, a self-reproaching which tends to leave the individual still more aware of his loneliness and 7 unwantedness. The psychological impact of this type of verbal abuse has been described in various ways. Kenneth Clark has observed, "Human beings ... whose daily experience tells them that almost nowhere in society are they respected and granted the ordinary dignity and courtesy accorded to others will, as a matter of course, begin to doubt their own worth." 8 Minorities may come to believe the frequent accusations that they are lazy, ignorant, dirty, and superstitious.19 "The **accumulation of negative images ... present[s] them with one massive and destructive choice: either to hate one's self, as culture so systematically demand[s], or to have no self at all, to be nothing**."2 **The psychological responses to such stigmatization consist of feelings of humiliation, isolation, and self-hatred**. Consequently, it is neither unusual nor abnormal for stigmatized individuals to feel ambivalent about their self-worth and identity.2 This am- bivalence arises from the stigmatized individual's awareness that others perceive him or her as falling short of societal standards, standards which the individual has adopted. Stigmatized in- dividuals thus often are hypersensitive and anticipate pain at the prospect of contact with "normals."I It is no surprise, then, that racial stigmatization injures its victims' relationships with others. **Racial tags deny minority in- dividuals the possibility of neutral behavior in cross-racial contacts,2 thereby impairing the victims' capacity to form close interracial relationships**. Moreover, **the psychological responses of self-hatred and self-doubt unquestionably affect even the vic- tims' relationships with members of their own group**. 24 **The psychological effects of racism may also result in mental illness and psychosomatic disease**.Y The affected person may react **by seeking escape through alcohol, drugs, or other kinds of anti-social behavior**. The rates of narcotic use and admission to public psychiatric hospitals are much higher in minority com- munities than in society as a whole.26 The achievement of high socioeconomic status does not diminish the psychological harms caused by prejudice. The effort to achieve success in business and managerial careers exacts a psychological toll even among exceptionally ambitious and up- wardly mobile members of minority groups. Furthermore, those who succeed "do not enjoy the full benefits of their professional status within their organizations, because of inconsistent treat- ment by others resulting in continual psychological stress, strain, and frustration."27 As a result, the incidence of severe psychological impairment caused by the environmental stress of prejudice and discrimination is not lower among minority group members of high socioeconomic status. 8 One of the most troubling effects of r**acial stigmatization** is that it **may affect parenting practices among minority group members, thereby perpetuating a tradition of failure. A** recent study29 of minority mothers found that many denied the real significance of color in their lives, yet were morbidly sensitive to matters of race. Some, as a defense against aggression, identified excessively with whites, accepting whiteness as superior. Most had negative expectations concerning life's chances. **Such self- conscious, hypersensitive parents, preoccupied with the ambigui- ty of their own social position, are unlikely to raise confident, achievement-oriented, and emotionally stable children.** In addition to these long-term psychological harms of racial labeling, the stresses of **racial abuse may have physical conse- quences. There is evidence that high blood pressure is associated with inhibited, constrained, or restricted anger,** and not with genetic factors, 30 **and that insults produce elevation in blood pressure**." American blacks have **higher blood pressure levels and higher morbidity and mortality rates** from hypertension, hypertensive disease, and stroke than do white counterparts.32 Further, there exists a strong correlation between degree of darkness of skin for blacks and level of stress felt, a correlation that may be caused by the greater discrimination experienced by dark-skinned blacks. 33 In addition to such emotional and physical consequences, **racial stigmatization may damage** a victim's pecuniary interests. The psychological injuries severely handicap **the victim's pursuit of a career. The person who is timid, withdrawn, bitter, hypertense, or psychotic will almost certainly fare poorly in employment settings**. An experiment in which blacks and whites of similar aptitudes and capacities were put into a competitive situation found that the blacks exhibited defeatism, half-hearted competitiveness, and "high expectancies of failure."34 For many minority group members, the equalization of such quantifiable variables as salary and entry level would be an insufficient an- tidote to defeatist attitudes because the psychological price of at- tempting to compete is unaffordable; they are "programmed for failure."3 Additionally, career options for the victims of racism are closed off by institutional racism 36 -the subtle and un- conscious racism in schools, hiring decisions, and the other prac- tices which determine the distribution of social benefits and responsibilities.

#### College policies are good and deter individuals from racial insults.

Richard Delgado 82, professor of law. “WORDS THAT WOUND: A TORT ACTION FOR RACIAL INSULTS, EPITHETS, AND NAME-CALLING” Harvard Civil Rights-Civil Liberties Law Review. 1982.

It is, of course, impossible to predict the degree of deterrence a cause of action in tort would create. However, as Professor van den Berghe has written, "**for most people living in racist societies racial prejudice is merely a special kind of convenient rationalization for rewarding behavior**." In other words, in racist societies "most members of the dominant group will exhibit both prejudice and discrimination," but only in conforming to social norms. Thus, "[W]hen social pressures and rewards for racism are ab- sent, racial bigotry is more likely to be restricted to people for whom prejudice fulfills a psychological 'need.' In such a tolerant milieu prejudiced persons may even refrain from discriminating behavior to escape social disapproval." **Increasing the cost of racial insults thus would certainly decrease their frequency. Laws will never prevent violations altogether, but they will deter "whoever is deterrable." Because most citizens comply with legal rules,** and this compliance in turn "reinforce[s] their own sentiments toward conformity," **a tort action for racial insults would discourage such harmful activity through** the teaching function of the law. The establishment of a legal norm "creates **a public conscience and a standard for expected behavior** that check overt signs of prejudice." Legislation aims first at controlling only the acts that express undesired attitudes. But "when expression changes, thoughts too in the long run are likely to fall into line."'" "Laws ...restrain the middle range of mortals who need them as a mentor in molding their habits." Thus, "If we create institutional arrangements in which exploitative behaviors are no longer reinforced, we will then succeed in changing attitudes[.] [that underlie these behaviors]. ' **Because racial attitudes of white Americans "typically follow rather than precede actual institutional [or legal] alteration," a tort for racial slurs is a promising vehicle for the eradication of racism**.

## 3

#### Interpretation: the aff may not specify a group of people for whom protected speech is unrestricted

#### Violation:

they spec athletes

#### Standards

#### 1. Limits

they explode the topic and can specify down to literally any of the millions of people in college which creates truism affs and kills valuable education on the topic – we’re spread too thin and can’t prep effectively. Education is a voter – it’s the purpose of debate and the out-round-benefit we all gain from it.

#### 2. Ground

they’re always ahead on the people they’ve picked which means generics can’t solve – they’ll pick a group for which they don’t mater – obviously the hate speech PIC doesn’t work against the BLM aff and so on. Devastates fairness – there’s no possibility for the negative to engage or be able to read coherent arguments. Fairness is a voter – judge can’t vote for the better debater if one of them had an unfair advantage over the other, which means it’s necessarily a prior question.

#### Drop the debater –

A. hold them to their interpretation of the topic, they should have to defend their plan’s validity B. it’s the same as drop the arg because T indicts their advocacy C. the 1NC was skewed from the beginning and I can’t redo it

#### No RVIs –

A. neg flex – key to test tiny plans like theirs and have multiple 2NR options B. RVIs force a collapse in theory every round because we all know substance is untenable as soon as someone tries to check abuse C. they get an RVI if I read more than 1 shell which solves their offense and ensures good debate

## Case

### Framework

#### 1] ideal theory is good –

#### (a) their framework can’t answer complicated questions, such as how and when to aggregate or whether its okay to restrict or oppress one black person to save three white people – these kind of ethical questions are ignored by their framework and prove the validity of mine

#### (b) problems with ideal theories stem from us not moral phil.

Wood: Kantian Ethics ALLEN W. WOOD Stanford University

There is no plausibility at all, for example, in the suggestion that such **Kantian** **principles as** human **equality**, rationalism, **universalism**, and cosmopolitanism **are** in their content **favorable to racism**, sexism, **or** other forms of **oppression**, and such a thesis needs only to be stated explicitly to discredit itself. But this highly implausible thesis may be put forward by implication if it can be associated with the quite distinct but correct point that *even* a cosmopolitan and universalistic ethical theory, such as Kant’s, can be combined with racist or male-supremacist views in its application. It is also true that egalitarianism, rationalism, universalism, and cosmopolitanism a**re** especially **liable to rhetorical** **abuse** by those who advocate policies in direct violation of them, because subscribing to the correct principles at an abstract level is often enough a shabby ploy used to protect contrary policies from criticism. **The thought that this point has any** philosophical **significance**, however, **rests on an error** of abysmal proportions **about philosophy** and its relation to human practices. **If someone thinks there is a** philosophical **theory** of morality **whose uncritical adoption** and mechanical application **would** suffice to **protect us from evil,** then **that person is looking for something that could never exist. The correct standard for an ethic**al theory **is whether** it gets things right **at the level of basic** principles and **values, not whether it contains some** **magical property that protects us**, in the application of the theory, **from every perversion** or abuse through the influence of tradition and prejudice or the infinite human ingenuity of rationalization. **All theories are** about **equally subject to such abuse**, and no theory is immune to it. In fact, if we **think** that the adoption of **a certain philosoph**ical theory, or a certain set of religious dogmas, **will protect us from all** **moral error**, that way of thinking itself **is** extremely dangerous, quite irrespective of the content of the theory or dogma with which we associate it. That thought itself is actually **responsible for** a lot of **the evil** that **people do**.

#### Kant indicts don’t apply –

#### (a) I’m reading Kant’s political philosophy not his moral philosophy

#### (b) the Kantian subject is intersubjective and abstraction is key to deal with material realities and oppression.

Arnold Farr 02, professor of philosophy at University of Kentucky who focuses on German idealism, race philosophy, postmodernism, psychoanalsysis, and liberation philosophy. “Can a Philosophy of Race Afford to Abandon the Kantian Categorical Imperative?” Journal of Social Philosophy. Volume 33, No. 1. Spring 2002.

Whereas most criticisms are aimed at the formulation of universal law and the formula of autonomy, our analysis here will focus on the formula of an end in itself and the formula of the kingdom of ends, since we have already addressed the problem of universality. The latter will be discussed ﬁrst. At issue here is what Kant means by “kingdom of ends.” Kant writes: “By ‘kingdom’ I understand a systematic union of different rational beings through common laws.”32 The above passage indicates that Kant recognizes different, perhaps different kinds, of rational beings; however, the problem for most critics of Kant lies in the assumption that Kant suggests that the “kingdom of ends” requires that we abstract from personal differences and content of private ends. The Kantian conception of rational beings requires such an abstraction. Some feminists and philosophers of race have found this abstract notion of rational beings problematic because they take it to mean that rationality is necessarily white, male, and European.33 Hence, the systematic union of rational beings can mean only the systematic union of white, European males. I ﬁnd this interpretation of Kant’s moral theory quite puzzling. Surely another interpretation is available. That is, the implication that in Kant’s philosophy, rationality can only apply to white, European males does not seem to be the only alternative. The problem seems to lie in the requirement of abstraction. There are two ways of looking at the abstraction requirement that I think are faithful to Kant’s text and that overcome the criticisms of this requirement. First, the abstraction requirement may be best understood as a demand for intersubjectivity or recognition. Second, it may be understood as an attempt to avoid ethical egoism in determining maxims for our actions. It is unfortunate that Kant never worked out a theory of intersubjectivity, as did his successors Fichte and Hegel. However, this is not to say that there is not in Kant’s philosophy a tacit theory of intersubjectivity or recognition. The abstraction requirement simply demands that **in the midst of our concrete differences we recognize ourselves in the other and the other in ourselves**. That is, we recognize in others the humanity that we have in common. Recognition of our common humanity is at the same time recognition of rationality in the other. We recognize in the other the capacity for selfdetermination and the capacity to legislate for a kingdom of ends. This brings us to the second interpretation of the abstraction requirement. To avoid ethical egoism one must abstract from (think beyond) one’s own personal interest and subjective maxims. That is, the categorical imperative requires that I recognize that I am a member of the realm of rational beings. Hence, I organize my maxims in consideration of other rational beings. Under such a principle other people cannot be treated merely as a means for my end but must be treated as ends in themselves. **The merit of the categorical imperative for a philosophy of race is that it contravenes racist ideology** to the extent that racist ideology is based on the use of persons of a different race **as a means to an end** rather than as ends in themselves. Embedded in the formulation of an end in itself and the formula of the kingdom of ends is the recognition of the common hope for humanity. That is, maxims ought to be chosen on the basis of an ideal, a hope for the amelioration of humanity. This ideal or ethical commonwealth (as Kant calls it in the Religion) is the kingdom of ends.34 Although the merits of Kant’s moral theory may be recognizable at this point, we are still in a bit of a bind. It still seems problematic that the moral theory of a racist is essentially an antiracist theory. Further, what shall we do with Henry Louis Gates’s suggestion that we use the Observations on the Feeling of the Beautiful and Sublime to deconstruct the Grounding? What I have tried to suggest is that instead of abandoning the categorical imperative we should attempt to deepen our understanding of it and its place in Kant’s critical philosophy. A deeper reading of the Grounding and Kant’s philosophy in general may produce the deconstruction35 suggested by Gates. However, a text is not necessarily deconstructed by reading it against another. Texts often deconstruct themselves if read properly. To be sure, the best way to understand a text is to read it in context. Hence, if the Grounding is read within the context of the critical philosophy, the tools for a deconstruction of the text are provided by its context and the tensions within the text. Gates is right to suggest that the Grounding must be deconstructed. However, this deconstruction requires much more than reading the Observations on the Feeling of the Beautiful and Sublime against the Grounding. It requires a complete engagement with the critical philosophy. Such an engagement discloses some of Kant’s very signiﬁcant claims about humanity and the practical role of reason. With this disclosure, deconstruction of the Grounding can begin. What deconstruction will reveal is not necessarily the inconsistency of Kant’s moral philosophy or the racist or sexist nature of the categorical imperative, but rather, it will disclose the disunity between Kant’s theory and his own feelings about blacks and women. Although the theory is consistent and emancipatory and should apply to all persons, Kant the man has his own personal and moral problems. Although Kant’s attitude toward people of African descent was deplorable, **it would be equally deplorable to reject the categorical imperative without ﬁrst exploring its emancipatory potential.**

#### On the line-by-line –

#### a2 opotow –

#### [1] justifies why structural violence is wrong, but I take a non-aggregative view of it so I meet this framing argument

#### [2] reason fights arbitrary differences because it enforces a standard that all agents can meet

#### a2 young –

#### [1] is just wrong – despite whatever biases we have, if we reason towards a good, we will get the same answer, a racist and me will still reason that 2 + 2 = 4

#### [2] reason combats biases – if we are skewed towards one thing, we need to have reason to determine what is right in order to prevent those biases from influencing our morality – this argument bolster my framework and actually disproves consequentialism since (a) biases actually influence how we view consequences so that links you in (b) biases influence intuitions which is how consequentialism is justified so this arg doesn’t indict me

### Advantage

#### PIC solves and turns case – prevents hate speech which harms discourse but allows people of color to engage in activism.

Deanna M. Garrett 02 graduated from the University of Virginia in 1997 with a bachelor's degree in Religious Studies and a minor in Biology. She is a second-year HESA student and a Graduate Assistant in the Department of Residential Life. “Silenced Voices: Hate Speech Codes on Campus” University of Vermont July 29, 2002 http://www.uvm.edu/~vtconn/?Page=v20/garrett.html MW

Advocates of hate speech codes contend that **the inclusion of racist**, sexist, and homophobic speech **serves only to silence others’ voices**. "**Such speech** not only interferes with equal educational opportunities, but also **deters the exercise of other freedoms, including those secured by the First Amendment**" (Strossen, 1994, p. 193). **Faced with hate speech, many individuals are silenced or forced to flee, rather than engaging in dialogue** (Lawrence, 1993). In higher education, **dialogue is key** to learning and gaining new knowledge. Students engage in dialogue with one another, challenge each other, and propose new ideas. **However**, **racist speech does not invite this exchange but seeks to silence non-dominant individuals**. Post (1994) outlines three ways in which minority groups are silenced by hateful speech: (**1**) Victim [**survivors**] groups **are silenced because their perspectives are** systematically **excluded from** the dominant **discourse**; (**2**)victim [**survivors**]groups **are silenced because the pervasive stigma** of racism systematically **undermines** and devalues **their speech**; and (**3**) [**survivor**] victim groups **are silenced because the** visceral "fear, rage, [and] **shock" of racist speech** systematically preempts response. (p. 143)